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Held at Headquarters, New York,
on Thursday, 24 March 1994, at 10 a.m.

Chairman: Mr. ANDO

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The meeting was called to order at 10.25 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Third periodic report of Costa Rica (CCPR/C/70/Add.4)

1. At the invitation of the Chairman, Mr. Segura and Mrs. Castro de Barish (Costa Rica) took places at the Committee table.

2. Mr. SEGURA (Costa Rica) said that for Costa Rica, the first country to ratify the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, the submission of its third periodic report (CCPR/C/70/Add.4) was a confirmation of its ongoing interest in the cause of human rights. Since the submission of the second periodic report, a number of important changes had taken place, among them the establishment of the Office for the Protection of Citizens. While acknowledging that the third report did not follow the guidelines established by the Committee, he expressed the hope that it could serve as the basis for a fruitful dialogue with the Committee and that his delegation could supply any additional information required.

3. The CHAIRMAN said that section I of the list of issues concerning the third periodic report of Costa Rica referred to the constitutional and legal framework within which the Covenant was implemented, as well as non-discrimination and equality of the sexes. Paragraph (a) inquired about measures taken since the consideration of the second periodic report to disseminate information on the rights recognized in the Covenant and on the first Optional Protocol, and to disseminate information on the third periodic report, and the extent to which the public had been made aware of its examination by the Human Rights Committee. Paragraph (b) requested clarification of the relationships between the General Office for the Protection of Human Rights and its subordinate offices vis-à-vis the ordinary courts, in so far as the implementation of the Covenant was concerned. Paragraph (c) sought information on any specific factors or difficulties affecting the implementation of the Covenant. Paragraph (d) sought further information on the activities undertaken by the Office for the Protection of Women and the steps taken to ensure sufficient resources to allow it to discharge its functions effectively.

4. Mr. SEGURA (Costa Rica), responding to the issues raised in section I (a), said that the most important development since the submission of the second periodic report had been the establishment of the Office for the Protection of Citizens. Its purpose was to ensure respect for citizens' rights by agencies and authorities in the public sector. The Protector of Citizens was a member of the legislative branch and had full independence of operation, administration and opinion. The Office was competent to initiate proceedings ex officio or upon request, and to conduct investigations to discover the facts concerning complaints, requests or reports it had received regarding administrative activities of the public sector. It had no competence to intervene in electoral matters. The Office could conduct surprise inspections of offices, and request all information and documentation necessary for the fulfilment of its duties. It could legally enforce summonses to citizens to appear before it. If the

(Mr. Segura, Costa Rica)

Office became aware of an administrative inequality for which any organ of the judicial branch was responsible, it could so inform the Supreme Court of Justice or the judicial inspector's office.

5. When the Office for the Protection of Citizens became aware of an illegal or unfair act on the part of a public agency, it was required to inform that agency and recommend corrective action. If the matter could be considered criminal, however, it was required to report it to the Public Prosecutor's Office. Failure to respond to its recommendations could result in a fine against the official committing the violation or, after repeated violations, a recommendation of suspension or termination.

6. Anyone could have recourse to the Office. Its services were provided free of charge, and reports could be filed either orally or in writing. Complainants were required to provide only their name and address. The Protector must take action within one year in most cases, but could extend the time-limit if necessary. Complaints lodged with the Office had no effect on administrative or judicial deadlines, and the Office could not consider a complaint where legal action was pending, although it could pursue its own informal investigation.

7. Public agencies were required to cooperate with the Office in its investigations and to provide any assistance necessary. A public official's refusal to provide documentation or information to the Office could result in disciplinary action.

8. The Office established and maintained communication with various public and private human rights organizations, both national and international. It had special branches dealing with questions related to women; children and minors' quality of life and environment; public service and local government; social services; justice and police; and administration, finance and economics. Each branch had its own Protector to coordinate the specialized area, who would be provided with the resources required.

9. Another important aspect of the Office for the Protection of Citizens was the appointment of a "Protector-at-large" ("Defensor Itinerante"), whose function was to help citizens to submit reports and complaints, and conduct investigations on matters concerning their rights. His duties involved travelling around the country to receive direct reports concerning complaints and claims, and to provide information on the submission process. The Protector-at-large also clarified the competence of the Office in respect of various complaints and reports, and acted on behalf of the Protector when necessary. He could initiate proceedings ex officio when violations of the rights and interests of citizens were noted. When complaints did not fall within the competence of the Office, he informed citizens of the authority or agency they should contact. If a complaint was declared inadmissible, he would so inform the complainant and explain the reasons for denial. He was also responsible for compiling the available information on matters to be brought before the Office. He could inspect offices and visit officials to request information, and could attempt to find immediate solutions to problems wherever possible. He was also required to draft reports for studies requested by the various special branches, and to submit monthly reports to the coordinators of the special branches.

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10. In addition, a network of regional offices were empowered to act on behalf of the "Protector" in various locations around the country. Those offices could transmit the particulars of a complaint to a public official on behalf of the Protector. They communicated with the coordinators regarding investigations that should be brought to the attention of the special branches and verified compliance with the recommendations of the Office for the Protection of Citizens by the public agencies in question.

11. The Office also worked to promote and disseminate information on the rights and responsibilities of citizens, including mechanisms for the protection of human rights. It published all types of material, and provided information on the activities of the Office through the mass media. It held training programmes for public officials and was working to include the study of human rights in both public and private education. It coordinated the relationship between the Office and the communications media, and supervised the production of an annual report. In addition, it maintained a human rights documentation centre with an extensive bibliography and database.

12. The Office for the Protection of Citizens represented an important step forward. Certainly, improvements could be made in some areas of the Costa Rican legal system. Through the daily operation of the Office, such areas would no doubt come to light.

13. The CHAIRMAN inquired whether any specific action had been taken to disseminate the third periodic report.

14. Mr. SEGURA (Costa Rica) said that the report had been drafted by a special office of the Ministry of Foreign Affairs, which had gathered information from various other ministries, particularly the Ministry of Justice and Pardons, municipal governments, the Supreme Court of Justice, the General Office for the Protection of Human Rights, and non-governmental organizations. The news media and the Ministry of Justice and Pardons had been informed of the date when the report would be submitted to the Human Rights Committee. One of the faults of the system lay in the fact that there was no open channel of communication between non-governmental organizations and the Ministry of Foreign Affairs.

15. As to section I (b) of the list of issues, he noted that he had clarified the relationships in his preceding remarks concerning the Office for the Protection of Citizens.

16. Turning to section I (c), he said that in implementing the Covenant, his country faced economic difficulties, institutional difficulties and legal difficulties in terms of adapting its legislation to reality. Article 3 of the Covenant, in particular, posed problems, since despite legislation providing for formal equality between men and women, women were not fully able to exercise their civil and political rights. For instance, of the 34 members of the new Cabinet which was to take office on 8 May, only four were women. The Office for the Protection of Citizens had appealed to the President-elect to enforce Act No. 7142 on the Promotion of Social Equality for Women, which required that 50 per cent of government posts should be occupied by women.

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17. Other problems related to the implementation of article 7, which protected prisoners against abuses of authority. Despite an intensive public-information campaign designed to prevent such abuses, they persisted, since the authorities could not always control the actions of the security forces. A commission of inquiry was being formed to investigate such incidents, identify the perpetrators and bring them to justice.

18. His Government, aware that that was an issue of relevance to all countries, had proposed that a working group should be established to consider the elaboration of an optional protocol to the Covenant on that subject. The main task of a such a group would be to visit prisons and detention centres in as many countries as possible in order to gather data. In Costa Rica, a working group had been engaged for the past two years in preparing an initial draft of such a protocol.

19. A further difficulty had to do with the attitude prevailing in some sectors that, in view of its outstanding record in defending and promoting human rights, Costa Rica did not need to make any improvements in its institutions or policies. A wide-ranging public education campaign was needed in order to convince the public that human rights must be monitored and defended on an ongoing basis.

20. With regard to section I (d) of the list, he said that the Office for the Protection of Women had been established under Act No. 7142 of 8 March 1990, which incorporated a number of international women's rights instruments, especially the Convention on the Elimination of All Forms of Discrimination against Women.

21. In the international context, his country had made contributions in that area to the World Conference on Human Rights, notably by proposing that the Vienna Declaration adopted at that Conference should condemn gender-based violence.

22. In the Central American context, the Office for the Protection of Women was in the vanguard in terms of recognizing and promoting awareness of the special discrimination faced by women. In the past three years, the Office had focused on providing equal access for women to public office. It also served as a focal point for complaints against government administrative offices, and provided women with advice and information on a number of topics, including domestic violence, violations of basic rights, discrimination in respect of family-support agreements, disputes between parents and children, and labour disputes. In 1992, 3,000 women had sought help from the Office; out of a sample consisting of 573 cases, 62.47 per cent had involved problems relating to domestic violence and 6.45 per cent had dealt with problems relating to the collection of support payments.

23. Mr. PRADO VALLEJO said that the Committee had had a constructive dialogue with the Government during the consideration of its two previous reports. With its long tradition of stable and democratic institutions, Costa Rica was a model for large and small countries alike. He appreciated the Costa Rican representative's admission that the third report (CCPR/C/70/Add.4) had not been drafted in accordance with the Committee's guidelines, in that it did not list

(Mr. Prado Vallejo)

the articles of the Covenant and detail the situation with regard to their implementation. The Committee needed to know what obstacles remained to full implementation.

24. On the other hand, the report contained important information on the new institutions for the protection of human rights. Further details should be provided on how those bodies functioned and what steps were taken to investigate complaints of human rights violations. Furthermore, it was unclear whether the Protection Offices could function independently, since, as stated in paragraph 7 of the report, they operated within the Ministry of Justice and Pardons. It would also be useful to have a full account of how the Government had handled a recent, well-publicized complaint made by Amnesty International.

25. He failed to understand why the report had not been disseminated to the media. State party reports should be disseminated widely so that all sectors of the population would be aware of their rights.

26. Article 75 of the Constitution, which described Roman Catholicism as the State religion and provided that the State should contribute to its maintenance, needed clarification. While that provision did not openly discriminate against other religious beliefs, it did confer a privileged status on one religion; he wondered whether there was any movement in Costa Rica calling for the amendment of that article in the interests of guaranteeing religious freedom.

27. Similarly, according to a report which he had received from the Costa Rican Human Rights Commission, article 34 of the regulations implementing the Act on the Teaching Profession provided for religious instruction in the public schools, and also required teachers of religion to have prior approval from the National Conference of Bishops. Thus, Catholic teachers were accorded a special status, and it was unclear whether teachers who professed other religions would be authorized to teach religion. The Government should indicate whether any demands had been raised in the country for the amendment of that provision.

28. Lastly, he drew attention to paragraph 215 (f) of the report, which stated that actions of unconstitutionality could be brought against inertia of and omissions and abstentions by public authorities; he requested the Government to explain what an action against inertia consisted of.

29. Mrs. EVATT said that she was disappointed with the report, which did not address the concern expressed by the members of the Committee during the consideration of the previous report at the Government's failure to meet the preparation guidelines. The current report provided information on government programmes, but failed to link them to specific articles of the Covenant. On the other hand, it also provided valuable information on the Constitutional Court, the remedies of amparo and habeas corpus and the Supreme Electoral Tribunal.

30. Referring to section I of the list of issues, she said that the Committee had formerly expressed concern with regard to the question of women's equality; unfortunately, the report provided little practical information in that area. She noted from the report which the Government had submitted to the Committee on the Elimination of Racial Discrimination that there was a specific provision

(Mrs. Evatt)

requiring political parties and other organizations to secure equal participation for women; it would be useful to have details on the effect of that provision. She also stressed the importance of involving the Costa Rican community in the preparation of reports so that individuals and non-governmental organizations could assist the Committee in considering it.

31. Mrs. HIGGINS said that the second periodic report of Costa Rica had already evidenced a mismatch between its contents and the reality in the country; the third periodic report was still worse. The Committee's guidelines had clearly not been adhered to. Although paragraph 1 of the report suggested that it would clarify points raised earlier by the Committee, in fact the text failed to do so. Many articles of the Covenant were not reflected in any way. While she appreciated the dialogue with the representatives sent by Costa Rica, it would have been preferable to have heard from a representative of a government department responsible for human rights issues. The absence of such a representative was all the more unfortunate given the inadequacies of the report. Further, there was no evidence that the report had been disseminated in the country or that the media had been informed.

32. The whole approach suggested either contempt or the feeling that Costa Rica could rest on its laurels. It was clearly not good enough for representatives to admit that a report was inadequate; the Committee wanted a response to the points it had raised.

33. Mr. MAVROMMATIS said that Costa Rica had made an admirable contribution to human rights, so that it was all the more regrettable that the report before the Committee did not provide a real picture of the human rights situation in the country. At a time of increased strain on human rights, the submission of such an unstructured report was simply not acceptable. Much of the information actually provided could have been condensed into a much smaller space.

34. There appeared to be a proliferation of human rights organs in Costa Rica. He would welcome information on the respective areas of competence of the General Office for the Protection of Human Rights, and its subordinate offices, and the Office for the Protection of Citizens, and an indication of why the latter Office had been needed, given the recent establishment of the other human rights offices referred to in the report.

35. It had been difficult for Committee members to obtain information directly from non-governmental organizations within Costa Rica, presumably because the report had not been made available to them. Nevertheless, he noted that Costa Rica still provided a good example in terms of protecting human rights.

36. Mrs. CHANET said it was quite clear that the report did not meet the Committee's needs, which was particularly unfortunate given the political will to protect human rights that was evident in Costa Rica. The report did not enable the Committee to evaluate changes in the human rights situation during the interval between the submission of the second and third periodic reports, and the report before the Committee did not reflect the articles of the Covenant or explain how they were implemented. It seemed that non-governmental organizations had not had the report made available to them. She wished to know whether there were any plans to change that situation.

(Mrs. Chanet)

37. Regarding the statement in paragraph 54 that the Office for the Protection of Human Rights enjoyed independence in technical matters, she asked whether that was also true of its relationship vis-à-vis the courts, and whether it could seize a court directly in the event of a violation.

38. She noted that the Constitutional Court had only recently been established, and asked what its competence was and what decisions had been taken in respect of the application of international human rights instruments. She also requested clarification of the statement in paragraph 174 that the Constitutional Court had the power to order the release of persons in some circumstances. Lastly, in terms of offering guarantees for the rights protected under the Covenant, she asked what the allocation of responsibilities was between the Constitutional Court and other courts, including the proposed court of cassation.

39. Mr. EL-SHAFEI said that Costa Rica had a very positive human rights image, both in terms of relations between the authorities and the population, and internationally. It was accordingly all the more disappointing that the current report had not taken into account the comments made by the Committee in its consideration of the second periodic report. The structure of the current report did not follow the Committee's guidelines, and the report did not provide much information.

40. He asked how the General Office for the Protection of Human Rights was constituted, whether its officials were elected or appointed, and how their independence was assured. He requested information on the Assembly of Protectors referred to in the report, as well as on the Office for the Protection of Citizens. He also wished to know whether the General Office for the Protection of Human Rights submitted reports to Parliament, and exactly how it monitored the protection of human rights.

41. The precise relationship between the various human rights offices and the courts required clarification. Lastly, he asked what efforts were being made to disseminate the Covenant in Costa Rica.

42. Mr. BRUNI CELLI agreed that the Committee's guidelines had not been met by the report, which should have covered developments in the implementation of the Covenant since the second periodic report. Nevertheless the report did contain valuable information.

43. He welcomed the establishment of the General Office for the Protection of Human Rights, and wondered how successful the various subordinate offices of the General Office had been in the view of the Government, and what difficulties had been encountered. In particular, the relationship between the new offices and government departments, and the use made by the population of the new offices, were not clear. He noted the comment in paragraph 83 that the Office for the Protection of Women lacked adequate staff, and asked what impact that had had on its operations and effectiveness, and whether other human rights offices were also affected. Lastly, he noted that information on the role played by the human rights offices and their relationship with the Government and the courts would be welcome.

44. Mr. HERNDL said he agreed with the comments of other members of the Committee regarding the inadequacy and confusing nature of the report (CCPR/C/70/Add.4). Moreover, the report seemed to concentrate on organizational matters while providing no detailed information on the actual human rights situation in Costa Rica, including the legal aspects of that situation. He also agreed with the criticism by members of the Committee of the apparent failure to make the report available for comment by non-governmental organizations in Costa Rica.

45. Turning to specific questions raised by the report, he asked what were the role and tasks of the General Office for the Protection of Human Rights referred to in paragraph 6 and the Assembly of Protectors referred to in paragraph 9, and how the work of the General Office related to civil responsibility. He also asked for more information on how the Office for the Protection of Human Rights helped prisoners to exercise their right to vote, as referred to in paragraph 56 (e), and on whether the overriding authority of treaties over internal laws applied to the Covenant as well as to the American Convention on Human Rights.

46. Mr. POCAR said that he agreed with the criticisms of the report already made by other members of the Committee. The report's inadequacies were particularly regrettable in view of Costa Rica's exemplary record with respect to human rights, and because much of the information on admirable new developments with regard to human rights in Costa Rica presented in the report could constitute the basis for a report which was in accordance with the guidelines laid down by the Committee.

47. Turning to matters of detail, he asked for clarification of the relationship between the Office for the Protection of Children referred to in paragraph 145 and the administrative and judicial authorities referred to in paragraph 146. Noting that, during the Committee's examination of Costa Rica's previous report, the Costa Rican representative had stated that the authorities had asked non-governmental organizations for assistance in the preparation of the report, he asked whether that had been done in the case of the present report.

48. Mr. SADI said it was because Costa Rica was a beacon of human rights that the report before the Committee was particularly disappointing. He was sure that the report's deficiencies and lacunae were unintentional; nevertheless they existed. For example, paragraph 4 referred to action taken when rights were violated. What action was meant, specifically, and what happened after the General Office for the Protection of Human Rights investigated such abuses?

49. On the question of dissemination of the report so as to enable non-governmental and other organizations to see and perhaps contribute to it, he said that although dissemination was not specifically called for by article 40 of the Covenant, the jurisprudence of the Committee made it necessary.

50. Mr. SEGURA (Costa Rica), replying to some of the general comments made by Committee members, noted that the report had been prepared at a time when Costa Rica had been participating actively in preparations for the World Conference on Human Rights as well as a regional conference on human rights; the officials

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involved had perhaps been too busy to give the report the attention it required. In the light of Costa Rica's human rights record and its active participation in the work of the United Nations in that field, its attitude towards the Committee could certainly not be regarded as contemptuous. The lack of detailed information regarding the operation of the Office for the Protection of Citizens, which constituted the major new development dealt with in the report, was due to the fact that the Office had been established in November 1993, only three months before the deadline for submission of the report to the Committee and just a couple of months before the session of the Commission on Human Rights.

51. On the question of the publicity given to the report within Costa Rica, he pointed out that the report had been in preparation within the Ministry of Foreign Affairs throughout 1993 and could have been consulted by anyone interested throughout that period; there were no grounds for the suggestion that the report had somehow been kept secret. It was true that the report had not been published, but that was for reasons of economy. The Government's general procedure with regard to such reports was to announce that they would be submitted to the United Nations, after which anyone was free to consult and comment on them.

52. He would reply to the more specific questions of members of the Committee at a later meeting.

The meeting rose at 1 p.m.